

Order

**Michigan Supreme Court
Lansing, Michigan**

June 21, 2017

Stephen J. Markman,
Chief Justice

ADM File No. 2017-04

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen
Kurtis T. Wilder,
Justices

Proposed Amendment of
Canon 4 of the
Michigan Code of Judicial Conduct

On order of the Court, this is to advise that the Court is considering an amendment of Canon 4 of the Michigan Code of Judicial Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Canon 4 A Judge May Engage in Extrajudicial Activities

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. A judge should regulate extrajudicial activities to minimize the risk of conflict with judicial duties.

A judge may engage in the following activities:

(A)-(D) [Unchanged.]

(E) Financial Activities.

(1)-(3) [Unchanged.]

- (4) Neither a judge nor a family member residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:
- (a) A judge may accept a gift or gifts not to exceed a total value of ~~\$100~~\$375, incident to a public testimonial; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice.
 - (b) [Unchanged.]
 - (c) A judge or family member residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and if ~~its~~the aggregate value of gifts received by a judge or family member residing in the judge's household from any source exceeds \$100\$375, the judge reports it in the same manner as compensation is reported in Canon 6C. For purposes of reporting gifts under this subsection, any gift with a fair market value of \$150 or less need not be aggregated to determine if the \$375 reporting threshold has been met.

(5)-(7) [Unchanged.]

(F)-(I) [Unchanged.]

Staff Comment: The proposed amendment would increase the acceptable value for a gift given incident to a public testimonial, and likewise would increase the threshold amount for disclosure of a gift. This proposed increase would be the first revision since the \$100 value threshold was adopted in 1974.

The threshold amount for reporting gifts is widely variable among the states and federal government. The disclosure threshold for reporting gifts in other states, established by statute or court rule, ranges from \$50 to \$500. Many states do not have a threshold amount at all; instead, such states may prohibit the acceptance of gifts from certain classes of donors, or alternatively allow judges to accept a certain class of gifts without regard to value for specific events, such as a wedding, or 25th or 50th wedding anniversary. In considering whether to publish for comment a proposed change, the Court also considered the increase in the value of money since the \$100 threshold was adopted. According to the American Institute for Economic Research, the value of \$100 in today's economy is \$495.92.

In settling on a structure for purposes of publication, the Court used the federal disclosure rule and threshold as its model. For federal judges, the gift disclosure amount is \$375, as established by the Judicial Conference. The instructions for submitting the annual disclosure report require a federal judge to:

Report information on gifts aggregating more than \$375 in value received by the filer, spouse and dependent child from any source other than a relative during the reporting period. Any gift with a fair market value of \$150 or less need not be aggregated to determine if the \$375 reporting threshold has been met.

Thus, similar to the federal rule, the proposed amendment would increase the disclosure threshold to \$375, but would require gifts to the judge and his family members from a single source to be aggregated for purposes of reporting. Gifts with value less than \$150 would not need to be included in this aggregate amount. Further, the proposed amendment would not change the restriction that a gift may be accepted under this subsection only if the donor is not a party or other person whose interests have come or are likely to come before the judge.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by October 1, 2017, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2017-04. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 21, 2017

Clerk